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International Court of Justice

H0101-0002

Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 4 April, 1946, 1000-1300, Lord Justice Lawrence presiding.

THE PRESIDENT: Go on, Dr. Nelte.

WILHELM KEITEL -- Resumed

DIRECT EXAMINATION -- Continued

BY DR. NELTE:

Q. Yesterday we discussed the meeting on the 21st of April between you, Hitler, and Adjutant Schmundt. I show you again Document 388-PS, and ask you to answer me as to whether or not this was a conference in the sense as you defined it yesterday.

A. To a certain extent it is true that I was called and, to my entire surprise, had explained to me thoughts concerning war against Czechoslovakia. This took place in a very short period of time, before Hitler's departure for Berchtesgaden. I do not recall having said one word during this conference, which was very short. Questions were asked of me, and then, with these very surprising directives that I received, I went home.

Q. What happened then, so far as you were concerned?

A. My thoughts during the first hour thereafter were, in view of the military strength that we then possessed, that these measures could not be carried out, and I then calmed myself with the thought that this plan could not be put into execution in the near future.

I discussed the matter the next day with the Chief of the Fuehrung Staff, General Jodl. I received no minutes of this meeting, nor any official document regarding it. The talk ended with the decision to let things wait because there was plenty of time, and that this attack on Czechoslovakia was out of the question for military reasons.

I also explained to Jodl, and my introductory words were there, that it was not my intention in the near future to undertake aggressive action against Czechoslovakia.

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Then, in the next weeks, we began the theoretical considerations; this, however, without the participation of the departments of the Wehrmacht, because I was not authorized to consult them.

It is to be noted, as can be seen from the Schmundt documents, that the military adjutants were asked innumerable questions regarding the strength of divisions, and so on.

Q. I believe we can shorten this. The decisive point could be reached if you would compare, in the document, the outline that you drew up on orders from Obersalzburg, and tell me what resulted from that outline of yours.

A. Yes. About four weeks after I was given this job, I sent to Obersalzburg an outline of this project.

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A. By way of answer I was informed that Hitler himself would come to Berlin and speak with the high commander in chief of the army. I came to Berlin at the end of May, and I was present at the conference with General von Brauchitsch. In this conference the basic plan was changed althogether. Now Hitler expressed the wish and intention as soon as possible to take military measures against Czechoslovakia. The reasons why he changed his mind were because-- I believe this was the 20th or 21st of May -- Czechoslovakia had ordered general mobilization, and Hitler declared that that could only be directed against us. Military preparations had not been taken by Germany.

This was the reason for the complete turnabout of his intentions, which he communicated orally to the commander in chief of the army and ordered him to take steps immediately. This explains the changes in the basic plan -- that is to say, "It is my irrevocable decision to take military action against Czechoslovakia as soon as possible."

Q. War did not take place between Germany and Czechoslovakia because of the Munich agreement. How did you and the generals regard this Munich agreement?

A. We were extraordinarily happy that it had not reached the point of a military operation, because during the time of preparation we had never participated in the basic proposition that our boundary fortifications against Czechoslovakia were sufficient. That would have made necessary our piercing the Czechoslovakian boundary defenses, and we were not strong enough to do that. Moreover, for this reason we were particularly happy that a peaceful solution had been reached.

Q. What effect did this agreement have on the generals' opinion of Hitler?

A. I believe I may say that this raised Hitler greatly in the opinion of the generals. We recognized that although military preparations were not neglected a solution had been found which had not been expected and for which we were thankful.

Q. Is it not extraordinary that three weeks after this agreement that had been so welcomed by everyone, including the generals, Hitler made preparations

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for the occupation of the rest of Czechoslovakia?

A. I believe, as Marshal Goering stated in his testimony lately, my impression was this: As Hitler told me then, he did not believe that Czechoslovakia could stand the loss of the Sudeten territories with their strong fortifications; and, moreover, he was concerned over the close connections between Czechoslovakia and the Soviet Union. He regarded Czechoslovakia as a threat. That was the military impression I received.

Q. Was it pointed out to Hitler by anyone that there was great danger in a forceful settlement of the problem of Czechoslovakia -- danger from the side of the other great powers, England and others?

A. I did not know of the last talk in Munich between Chamberlain and the Fuehrer, but I always regarded this question it its further ramifications as a political one. Consequently, I did not give expression to my misgivings, all the more since the military preparations that had been made before Munich had been reduced. To discuss the political question was something that did not please the Fuehrer.

Q. In connection with this problem of Czechoslovakia I should like to bring up Colonel Koechling, who was mentioned by the Prosecution as the liaison man with Hitler. Was the Wehrmacht or the OKW a participant in this?

A. Koechling's job was unknown to me. Hitler asked me if an officer was available to carry out a special mission, and if so he should report to Hitler. After I sent Lieutenant Colonel Koechling from Berlin I never saw him again or spoke to him further. I do know, however that, as I found out later, he was with Henlein as military adviser.

Q. The Prosecution has brought up facts as follows: At both the visit of Tiso in March, 1939, as well as the visit of Hacha, you were present, and it was deduced from these facts that you took part in the political discussions that took place at those times. What role did you play on these occasions?

A. It is true that on the occasion of such visits from foreign statesmen I was present in the Reich Chancellory on every occasion -- at any rate, present when they were greeted. I did not take part in the discussions and never took part in concrete discussions of a political nature. I was present

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for the official greeting and felt that I should be present as a representative of the high office in the Wehrmacht. But in each individual case that I can recall I withdrew and then waited in the antechamber to see whether I might be needed. I can consequently say that neither with Tiso nor with President Hacha did I say one single word nor take part in the direct discussions that Hitler was carrying out. Let me add, however, that in the night of President Hacha's visit I was obliged to be present in the Reich Chancellory, because the high command of the army had to be given orders as to how the entry into Czechoslovakia that had been prepared was to be carried out.

Q. In conclusion of this point I wish to ascertain simply this, because I believe it has otherwise been cleared up by Goering's testimony: You never spoke to President Hacha of a possible bombarding of Prague in the event that he should refuse to sign what he was asked to sign?

A. No.

Q. We come now to Poland. Here too the Prosecution accuses you or having participated in the planning of the military action against Poland. Would you like to state your basic attitude towards this eastern problem in brief?

A. The questions connected with Danzig and the Corridor were known to me. I also knew that political discussions and negotiations were connected with these questions. The plan for the attack on Poland -- I had, of course, some connection with these problems. Since I did not concern myself with political matters, I personally was of the opinion that, as in the case of Munich and before, military preparation or -- if I may so call it -- military pressure would play the same sort of role as in my opinion it had played at Munich. I did not believe that without any such military preparation things would develop.

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Q Could not this question have been solved by direct negotiations.

A That is hard for me to say, although I know that in the Danzig question discussions took place several times, as in the case of the question of the Corridor. I recall an expression of an opinion that impressed me at the time, when Hitler said he regretted Marshal Pilsudski's death because he believed that he might have reached some agreement or arrangement with this statesman. This statement was made in my presence then to me.

Q The prosecution has stated that already in August 1938, Hitler has busied himself with the question of war against Poland. Did you participate in this?

A No. That I cannot recall. I believe I have notes that can demonstrate that this was not the case. I accompanied Hitler on a thorough tour of inspection of the eastern fortifications. At that time we covered the entire Front from Pommerania to Breslau in order to look at the frontier fortifications against Poland. The matter of the fortifications in the east was an important serious question at that time and can only imagine that these were considerations in Autumn of 1938, that stood in some connection with the Danzig and Corridor question and he simply wanted to convince himself that it had been necessary to strengthen these eastern fortifications if the Danzig and Corridor questions should lead to war.

Q When were the preparations made for the occupation of Danzig?

A I believe that was in the late Autumn of 1938. Orders were issued from East Prussia that Danzig should be occupied at the proper moment in the form of a coup d'etat. More, I don't know.

Q Was the possibility of war discussed in this connection?

A Yes. That is connected with the inspection of the fortifications, and so on, that I just described, but that a specific preparation of some sort for anything more than a coup d'etat was to take place from East Prussia I do not know, and it actually did not take place.

Q I believe I recall your having told me during your discussion of these questions, that Danzig should only be occupied if no war with Poland would arise from that.

A Yes, that is so. That remark was made several times, that this occupation of Danzig would only be carried out if it were certain that a

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war would not result from it.

Q When did this view change?

A I believe that Poland's refusal to negotiate the question of Danzig was apparently the reason for further considerations and steps on the part of Germany.

Q The prosecution --

A I might perhaps add that as to any other evaluation of the situation after Munich had been reached by him in connection with the eastern problems, I recall in this connection, that the Czechoslovakian problem was solved without a shot. Perhaps the other German problems in the east could also be solved in that way and I also believe that I remember Hitler saying that he did not believe that the Western Powers, particularly England, would concern themselves with these eastern problems of Germany.

Q That is document C-102, the "Case White" question. Then on the 3rd of April 1939, an order was issued.

A In the first sentence it is stated that this was a substitute for the regular annual instructions regarding the possibility of a mobilization,-- a further working over of these matters which were brought up annually and which we knew already from the years 1937 and 1938, but concretely, this was the situation: Hitler, in my presence, gave the commander in chief of the army at this time the order to make preparations of a military and strategic nature for a war against Poland and at this time, Iissued these first reflections, to be seen in this document. It is stated here that the Fuehrer has already ordered this, that it should be carried out by the 1st of October 1939, and the OKW should draw up a schedule for carrying out of these measures.

Q What was your and the other general's attitude towards this war?

A I must say that at the time of the preparations in connection with Czechoslovakia, both the high command of the army and the generals and also I, myself, disapproved of the notion of waging a war against Poland. We wanted no war in that sense, but, of course, we carried out the orders we had received, -- at least, formally. Our reasons for this were that, according to our knowledge of the military means that we had at our disposal, that is to say, the divisions, their armaments and their inadequate supply

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of munitions must not be ignored--we recognized as soldiers that we were not ready to wage a war against Poland.

Q. You want, thereby, witness, to state that in your consideration of this matter, only military matters influenced your attitude?

A Yes. I must admit that I did not concern myself with the political consideration. I was only concerned with "can we, or can we not?"

Q That is what I wanted to ascertain. Now, on the 23rd of May, 1939, there was a meeting at which Hitler delivered a speech to the generals. You know of this speech?

A Yes.

Q What was the cause, the reason, and the contents of this speech?

A I saw the copy of this speech only during my interrogations here and that reminded me of the situation at that time. The tendencies expressed in this speech -- This speech was simply delivered to the generals in order to inform the generals that they had no reason to feel perturbed and to point out that the prerequisites were not yet present and that political negotiations in this matter could still change the situation and still might. This speech was delivered simply by way of encouragement.

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Q Were you of the opinion at that time that things would really reach the point of war?

A No, I believed at that time that war would not come about, I believed that a solution by way of negotiation would take place as it had before. Our military considerations always were kept in the foreground. We generals believed that France and to a lesser extent England, in view of ots pact of mutual assistance with Poland, would attack and that we did not have the defensive means to combat such an attack. For this reason I personally was always convinced that war would not take place because we could not wage a war both against Poland and against France.

Q Now then, what was your opinion of after the speech of the 27th of August, 1939?

A This was a speech at the end of August delivered to the generals at Obersalzberg who had been in charge of the troops in the East and at that time also Hitler, toward the end of this speech, declared that a pact had been concluded with Soviet Union. I was completely convinced that it would not reach the point of war because I believed that on these conditions a basis for negotiation was available and that Poland would not be recalcitrant and that there was a satisfactory basis for negotiation, although Hitler said in this speech, which again I read here for the first time, that the preparations should be carried out to the utmost and that it was intended to put them into execution.

Q Did you know that England actually attempted to mediate?

A No, I knew nothing of these matters. It was very surprising to me as it was on the 24th or 25th, only a few days before the conference at Obersalzberg, I was called to Hitler at the Reichchancellory and he ordered me to stop everything at once, to call Brauchitsch. "I need time for negotiations" he said, I believe that with these few words I was dismissed.

Q What followed thereupon?

A I telephoned at once to the Commander-in-chief, Brauchitsch, and he was called to the Fuehrer. Everything was stopped and all decisions regarding a possible military decision were posponed. I believe there was a pause which took place in the military preparations which lasted about five days.

Q Did you know of the so-called minimum demands on Poland?

A

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A I believe that I saw them in the Reichschancellory. I believe Hitler showed them to me personally; that is to say that I knew of them.

Q Since you saw them did you hold these demands to be serious?

A I was only in the Reichschancellory during this period for a matter of minutes and as a soldier I naturally believed that these were meant perfectly seriously.

Q Was there talk at that time of border incidents?

A No. This question of border incidents was discussed with me here in my interrogations. During this situation when there were discussions and negotiations at the Reichschancellory there was no mention of border incidents.

Q I now show you document 795-PS. It is a copy --

(witness handed the document)

A May I add something, namely that on the 30th of August the day of attack which was then on the first of September was again postponed for twenty-four hours. For this reason Brauchitsch and I were again called to the Reichschancellory and as I recall it the reason for this postponement was that a Polish plenipotentiary was expected and preparations were to wait twenty-four hours until he arrived. Then no further changes were made in the military plans.

This document regarding Polish uniforms for border incidents or for any sort of illegal military undertakings has been shown me and I know it. There is a subsequent copy made by Canaris of a talk that I had with him. He told me at that time that he was to make available a few Polish uniforms. This had been communicated to him from the Fuehrer through an adjutant. We both agreed that this was intended for some illegal action. If I recall correctly I told him at that time that I did not see much future in such actions and that he should keep his hands away from such things. We then had a short discussion as to a coup d'etat that was to be undertaken with which the Wehrmacht had been commisioned. I did not know any more that that at that time. I believe I told Canaris that he could evade this whole issue by saying that he had no Polish uniforms and that would settle the matter.

Q You know, of course, that this matter is connected with the later attack on the radio station at Gleiwitz. Did you know this event at all?

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A This undertaking came to my knowledge for the first time here through the testimony of witnesses. I never found out who was commissioned to carry out such things and until I heard testimony here before this Tribunal I knew nothing of this attack on the radio station at Gleitwitz. I also do not recall that I found out at that time that the event had taken place.

Q Did you know of America's and Italy's efforts after the 1st of September 1939, to end the war in one way or another?

A I knew nothing of the political discussions that took place during those last few days from the 24th August up to the 1st of September, 1939. I knew nothing of a visit by Dahlerus. I knew nothing of London's intervention. I remember onlybone thing, that I met Hitler very briefly once in the Reichs-chancellory and he said to me:

" Do not bother me now, I am writing a letter to Daladier."

It must have been in the first days of September. Of the matters that I found out here and of the steps that were taken after the 1st of September I nor any of the other generals knew anything about that at that time.

Q What did you say to Canaris and Hah Lahousen on the 14 of September. that is shortly before the attack on Warsaw with regard to political matters under the code term "Flurbereiningung" (House cleansing)?

A I did not recall that visit at all until it was brought to my attention here. As I remember, that I had said many things which Hitler had ordered of me and I had passed on these orders to the Commander-in-chief of the army of Poland as to what to do regarding the Polish Police attacks on Germans. I can only say that I repeated what had been said in my presence between Hitler and Brauchitsch. I can make no statements regarding details.

I might add that the Commander-in-chief of the army, Brauchitsch, complained several times that as long as he had executive authority in the occupied territory he would tolerate no other officers or departements in that region. On his wish then, in October he was relieved of his responsibility for the government of Poland. I should like therefore to believe that the testimony was not quite correct or from what is set down in notes.

Q We come now to the question of Norway. Did you know that Germany had made in October 1939, a declaration of neutrality to Denmark and Norway?

A Yes, I knew that.

Q Were you and the OKW present at discussion of declarations of neutrality in this or other cases?

A No.

Q Were you informed of them?

A No, not that either. Those were foreign political discussions on which we soldiers were not informed.

Q Of course, you as a personality knew these things through reading newspapers or some such things?

A Yes.

Q During our discussion of the problem of aggressive war I asked you a question and should like, in order to save time, not to repeat this question; but it seems to me that the question that I asked, in order to get your opinion regarding aggressive war, would have to be asked again in this connection because an attack on a neutral country, a country to which a guarantee had been given, brings up particular scruples on the part of people who have to do with the waging of war. Therefore, I ask you again and ask for your explanation as to what your attitude and the attitude of the soldiers was?

A I must say we were already at war. There was a state of war between England and France, on the one hand, and Germany and England on the other, and it would be dishonest to say that I concerned myself with these things. I regarded them rather as political matters and, in the same way, I, as a soldier, had the opinion that the preparations for a military action against Norway and Denmark were by no means the activation of an attack and that these preparations would have to last for months if one was really to undertake such an action. In the meantime, the prerequisites for such an attack could change, and it was these thoughts that decided me not to take any steps in this question of intervention in Norway and Denmark. I will say that I left these things to those who were concerned with political matters.

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Q When were the preparations for this action begun?

A The first discussions were in October of 1939. On the other hand, the first orders were issued for the first time in January; that is to say, several months later. Also, in connection with the discussions that took place in this connection, I remember that one day I was ordered to bring Raeder to the Fuehrer. He wanted to ask him questions about sea warfare in the Atlantic Ocean and the dangers that we would meet in waging war in this area. A special staff was created by Hitler, which was to occupy itself with these problems. I have seen documents on that subject here and I was to occupy myself with a study of these problems from the military point of view. This special staff was not under my personal direction. Hitler said that he, himself, would give orders to this staff. Thus, in the months at the end of 1939, beginning with 1940, these were the military considerations.

Q In this connection I should like to know further whether you had any conference with Quisling at this stage of developments?

A No, I neither saw Quisling before the Norway campaign nor afterwards. I only saw him approximately two years later, after the conclusion of that campaign. There were no connections between us, even in the way of communication of information. I have already stated in an interrogation that I sent an officer, I believe Colonel Pieckenbeeck, to Copenhagen to have conferences with the Norwegians, but I did not know Quisling.

Q In the waging of the war in the West, there is again the prominent question of violation of neutrality, particularly in the case of Belgium, Luxembourg, and the Netherlands. Do you know whether these three countries were given assurances that their neutrality would not be violated?

A Yes, I knew that at that time.

Q I don't want to ask the same questions that I asked in connection with Norway and Denmark, but in this context I should like to ask you: Did you consider these assurances on the part of Hitler as honestly meant?

A I must say that I did believe them to be honestly meant. There was no intention of bringing any other state into this war. I had no reason to assume the opposite or to believe that this was a deception on Hitler's part.

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Q Do you believe that after the conclusion of the Polish campaign there was a possibility of a localization or a conclusion of the war altogether?

A Yes, I did believe that. I was reinforced in this conviction by the Reichstag speech after the Polish war, in which Hitler made hints that led me to believe that discussion of a political nature could be carried out with England on these matters and because Hitler had always told me, whenever I brought up this question, "The West is really not interested in these Eastern-German problems". This was the phrase that he always used to pacify people, that the Western powers were not interested in the East.

Also, from a purely military point of view, the situation was that we soldiers always counted on the intervention of the Western powers during the Polish campaign and were very surprised that, aside from certain skirmishes between the Siegfried and the Maginot Line, no such military action on the part of the Western Powers took place. The entire Western front from the Dutch border to Basel was covered by only five divisions, which was a very weak fortification of the Western wall. So, from a purely military point of view, attack on the part of the Western Powers during the Polish campaign would have met only a show of defense, which would certainly not be effective.

Since this did not take place, we soldiers had the opinion that the Western Powers really did not have any serious military intentions. The Western Powers, we thought had passed the favorable time for an attack, and, now that the Polish campaign was concluded, we did not believe that they would undertake a campaign. This was our opinion of what the further attitude on the part of the Western Powers would be.

Q What plans did Hitler have for the West?

A Already during the last phase of the Polish campaign, he transported all available forces to the West, in consideration of the fact that at any time something might happen there. But, even during the last stage of the Polish campaign, he stated to me that he wanted to throw his forces as swiftly as possible from the East to the West and wanted to attack in the winter of 1939-1940.

Q Were in these plans the attack on Luxembourg, Belgium, and Holland provided for?

A Not at first. At first, if we can express it militarily, the

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the attack in the West was to be a security measure. It was to take place at the unfortified fort at the border from Aachen to the Dutch frontier. At the end of September and the beginning of October, a transportation of the army from the East to the West did take place without, however, any fixed center of gravity.

Q What did the German intelligence know about Belgium and Holland's attitude and preparations?

A This changedseveral times of course, in the course of the winter, or in the autum of 1939. I can only speak for myself, and there may be other opinions on this matter. I was of the opinion that Belgium wanted to remain out of the war under any circumstances and would do anything it could to preserve its neutrality. On the other hand, we received, through close cconnections between the Belgium and Italian royal houses, a number of reports that sounded threatening to us. Whether or not they were true, I had not way of finding out. However these reports stated that Belgium was submitted to strong pressure to give up its neutrality.

About Holland, we knew at that time only that there were general staff relations between it and England. But then, in the months of October to May, 1940, the matters took various forms, became more or less serious. Purely militarily, we knew one thing; to wit, that the French had taken all their motorized and swift units and had put them on the Belgian border and, from a military point of view, we interpreted this measure as meaning that at least preparations were being made for crossing through Belgium, at any rate, for an attack on the Ruhr district.

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I believe I should omit details here, because they are not important to further development and are of a purely military nature.

Q Where there differences of opinion between the Generals and Hitler with reference to the attack in the West through this neutral territory?

A I believe I must say that that was one of the most serious crises in the whole ar, namely, the opinions of a number of Generals, including the Commander-in-Chief, von Brauchitsch, and his Chief of General Staff, and I also personnaly belonged to that group -- who wanted to attempt to prevent an attack in the West, which Hitler already intended in the winter of 1939.

There were various reasons for this: The difficulty of transporting the Eastern Army to the West; then another fact -- and this I must state -- the fact that we believed at that time that if we did not attack the possibility of a peaceful solution would not yet have been completely obviated. In other words, we considered it possible that until the spring many political changes could take place. Secondly, as soldiers, we were decidedly against the waging of a winter war, particularly in view of the long nights and short days which are always a military disadvantage.

Hitler objected that at any time the French advance through Belgium, with strong forces, could take place. However, we answered that we were involved in a war of movement, that we believe that we were superior.

I may perhaps add, as I said before, that this difference of opinion led to a very serious crisis, since these were my opinion and Hitler turned them down vigorously. He accused me in our talks in the sharpest manner, of conspiring against him,with the Generals and strengthening them in their opposition to his views. I must state that I immediately offered to resign, because I considered that the confidence between Hitler and myself had been completely destroyed. I may add that relations with the Commander-in-Chief of the Army also suffered greatly in this matter. But my resignation was not permitted. As this has already been discussed here, I need to go into it.

But this break in confidence was never healed. In the case of Norway there was already a similar conflict. Jodl's diary refers to it as a "serious crisis" I shall not go into this in detail, either.

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Q What was Hitler's incentive to the speech on the 31st of November 1939, in the Reichschancellery?

A I can say that this was very closely connected with the crisis I just discussed. He wanted to explain the reasons for this difference of opinion between himself and the Generals, and we knew it was his intention to bring about a change in attitude on the part of the General Staff. In the notes on this speech we see that individual persons were directly attacked, namely, those who had spoken against this attack in the West.

Moreover, he now wanted to make a definitive statement of his will to carry out this aggressive action in the West, because this -- in his view -- was the only strategic possibility, as every moment's delay was to the enemy's advantage. In other words, he was counting at that time on no other solution than resort to force of arms.

Q When, then, was the decision recommended to advance through Belgium and Holland?

A The preparations for such an attack on Belgium and Holland had already been taken but the decision, whether such a violation of the neutrality of these countries was actually to be carried out, this decision Hitler withheld until the spring of 1940, for all sorts of political reasons, and perhaps also with the thoughts that the problem would automatically be solved if the enemy invaded Belgium or Holland or some such things as that. I can state that the decision for the carrying out of this plan was withheld until the very last moment and the order was given immediately before it was to be executed.

I believe that there was also one other factor in this, which I have already mentioned, the relations between the royal houses of Italy and Belgium Since Hitler always surrounded his decisions in secrecy, he was afraid that this would come to light through this relationship .

(A recess was taken)

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THE PRESIDENT: Dr. Nelte, the Tribunal will be glad if when you refer to Czechoslovakia or any other state you will refer to it by its proper name--you and the defendants and other witnesses.

DR. NELTE: Mr. President, the Defendant Keitel wishes to rectify a statement which he made earlier upon my question regarding the occupation in the West during the Polish campaign.

THE PRESIDENT: Very well.

A I said earlier that in the West during the war against Poland, there were five divisions. I must rectify that statement. I had that mixed up with the year 1938. In 1939 there were approximately twenty divisions, including the reserves in the Rhineland and behind the West Wall. Therefore, the statement I made was made in error.

Q Now we come to the Balkan wars. The Prosecution, with reference to the war against Greece and Jugoslavia, has accused you of having cooperated in the preparation, planning and carrying out of those wars. What have you to state on that?

A The war against Greece and Jugoslavia came to us as a complete surprise, a total surprise. We were dragged into it without having made any plans. First of all, Greece. I accompanied Hitler during his journey to France for the meeting with Marshal Petain and Franco on the Spanish border, and during that journey we had our first news regarding the intention of Italy to attack Greece. The journey to Florence was immediately decided upon, and upon arrival there at Florence, we received Mussolini's statement, which has been mentioned by Marshal Goering; namely, that the attack against Greece had already begun.

I can only say from my own personal knowledge that Hitler was extremely disgusted with this development and the dragging of the Balkans into the war and that only the fact that Italy was an ally prevented a complete break with Mussolini. Any intention to wage war against Greece never did become known to me.

Q Was there any necessity for Germany to enter into that war? How did that come about?

A First of all, the necessity did not exist, but during the first months --October, November--of that campaign of the Italians, it became clear

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that the Italian position in this war had become extremely precarious. Therefore, probably as early as November or December, there were calls for assistance on the part of Mussolini, calls to assist him in some form or other.

Apart from that, seen from the military point of view, it was clear of course that for the entire military position in the war, a defeat of Italy in the Balkans would have had considerable consequences. Therefore, by means of improvisation, assistance was rendered. I think a mountain division was to be tried, but it was technically impossible since there were no unloading facilities, and other types of assistance were given by means of air transport and so on and so forth.

Q At the time when improvisations ceased, we come to the plan presented by the Prosecution and called "Marita". When was that?

A In fact, the war against Greece and Albania began to assume a state of standardization because of the influence of winter. During that time, considerations arose that, in order to avoid a catastrophe for Italy, certain formations were to be used for a relieving attack against Greece, and they were to be used from the North. That would, of course, have to take several months, and it did.

May I just explain that at that time a march through Jugoslavia or even the suggestion to place units at the disposal by marching them through Jugoslavia were turned down by Hitler, although the army particularly considered that possibility as the most suitable way of getting troops up and suggested it.

Regarding the plan Marita, nothing more can be said than what has been said about the marching through Bulgaria, which had been prepared and discussed diplomatically with the Bulgarian government.

Q I would like to ask just one more question on that subject. The Prosecution has stated that before the fall of the Jugoslav government -- that is to say, at the end of March 1941-- negotiations were conducted with Hungary for the eventuality of an attack on Jugoslavia. Were you or the OKW informed of this, or did you participate?

A No. I do not in any way or any form remember any military discussion on the part of the OKW with Hungary regarding the eventuality of a military

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action against Jugoslavia. That is completely unknown to me. To the contrary, everything that happened later on--I shall have to say a few words about Jugoslavia later--was completely new to us. Nothing had been prepared, at any rate, not within the knowledge of the OKW.

Q But it is known to you, is it not, that military discussions with Hungary had taken place during that period? I assume that you merely want to say that they did not refer to Jugoslavia.

A Yes, of course. It was known to me that discussions had taken place with the Hungarian military staff.

Q You said you wanted to say something else about the case of Jugoslavia. Reichmarshal Goering has made statements upon that subject. Can you add anything new? I will not have any further questions on that subject otherwise.

A I should merely like to confirm once more that the decision to proceed against Jugoslavia with military means meant a complete overthrowing of all military steps and preparations, deployment, etc. which had been made, which had to be completely gone over, just as new forces had to be brought through Hungary from the North, and all that was complete improvisation.

Q I am now turning to the case of "Barbarossa". The Soviet Russian Delegation, particularly, have stressed that the Supreme Command of the armed forces, and you as Chief of Staff, as early as the summer of 1940 had occupied themselves with the plan of attack against the Soviet Union. When did Hitler for the first time talk to you about the possibility of an armed conflict with the Soviet Union?

A As far as I recollect, that was at the beginning of August, 1940 on the occasion of a discussion at Berchtesgaden, or, specifically, at his house, the Berghof. That was the first time that the possibility of an armed conflict with the Soviet Union was discussed.

Q What were the reasons announced by Hitler at that time which could possibly lead to a war?

A I think I can refer to what the Reichmarshal has said on this subject According to our conception, there were considerable troop concentrations in Bessarabia and Bukowina. The Foreign Minister, too, has mentioned figures

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and there was the anxiety which had been repeatedly voiced by Hitler at that time that something further might arise on the strength of that in the Roumanian theatre which would lead to a threat to the fuel supply for our armed forces.

Apart from that, I think he talked about remarkable troop concentrations in the Baltic provinces.

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Q Were any directives given by you at that time or on the part of those army sectors which were affected?

A No. As far as I can recollect this was confined firstly to increased activities of the intelligence or espionage service against Russia and, secondly, certain investigations regarding the possibilities of transferring troops from the west, from France, as quickly as possible to the southeast areas, Prussia, respectively. Certain return transports of troops had occurred, certainly, at the end of July. Apart from that no instructions or directives were given at that time.

Q What was the line of demarcation?

A There were reports from that border or demarcation line regarding frontier incidents, trooping, and particularly about frequent crossings of that line by aircraft of the Soviet Union, which led to corresponding notes being exchanged. But at any rate there was a continuous small frontier fight, particularly in the south, and we received information through our frontier troops that at intervals or currently new Russian troop units appeared opposite them, and I think that was all.

Q How many divisions on the part of Germany were stationed there at the time?

A During the western campaign there were -- I don't think I am wrong this time -- seven divisions; seven divisions from East Prussia to the Carpathians, inclusive, two of which, during the western campaign, had even been transported to the west but were later on transported back again.

Q The prosecution stated that at the end of July 1940 Col. Gen. Jodl had given general instructions at Reichenhall to certain officers of the Army Leadership Staff instructing them to occupy themselves with the Russian problem, and particularly to examine the railway transport problem. Since you said a little earlier that not until August did you hear for the first time from Hitler what the situation was, I am now asking you what you know about this conference and whether you were informed about it.

A No. I didn't hear about it until I came here that such a conference took place. This was connected with the fact that I was absent from Berchtesgaden from the end of July or beginning of August, and I didn't know of this conference, and I think General Jodl probably forgot to tell me about it at

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the time.

Q What were your personal views at that time regarding the problem which after all did arise after that conference with Hitler?

A At that time when I became conscious of the fact that there were serious thoughts involved I was most surprised, and I considered it most unfortunate. I seriously considered what could be done to use military considerations for influencing Hitler. At that time, as has been briefly discussed by the Foreign Minister, I wrote a personal memorandum containing my thoughts. I should like to say, independently from the experts working in the General Staff and the Army Leadership Staff, I was proposing to submit that memorandum to Hitler. I decided on that method because it was typical that one would never get past the second sentence during such a discussion. When he would begin speaking one would be deprived of the opportunity of saying what one wanted to say, so I wanted to give it to him in writing. And in that connection I should like to say right now that I was considering that. And I think that was the first and only time that I visited the Foreign Minister personally, because I wanted to tell him to ask him to support me from the political angle regarding that question. That is the visit which has been discussed here to Fuschl which the Foreign Minister von Ribbentrop confirmed during his examination the other day.

Q You are confirming what Herr von Ribbentrop has said, so that there is no need for me to repeat it?

A I am confirming that I went to Fuschl, and as far as I know I had that memorandum with me. It had been made in handwriting, since I didn't want anybody else to get hold of it. And I left Fuschl conscious of the fact that he was trying to influence Hitler in the same way or at least he wanted to try and influence him. He had agreed to do that.

Q Did you give that memorandum to Hitler?

A Yes. A little later, after a report at the Berghof, I had handed him that memorandum when we were alone. I think he told me then that he was going to study it, took it, and didn't give me another chance to explain.

Q Did you later on find an opportunity to refer to it once more considering the importance of it?

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A Yes. To start with nothing at all happened. After some time, therefore, I reminded him of it. I asked him to talk to me about that problem. That actually occurred, and the matter was settled pretty briefly by saying that whatever was contained therein from the military point of view was in no way convincing. He, Hitler, would have to consider those thoughts erroneous, and turned them down. In that connection I should like to tell you very briefly that this touched me, offended me deeply once more, and there was yet another crisis when I asked to be relieved of my post and to place another man in my position. That once more led to a keen controversy which as is known has been stated by the Reich Marshal who mentioned the thoughts he had upon that subject, namely, that Hitler said that he resented the fact that a general, whose views he did not agree to, was asking for his resignation thereupon. I think he said that it was his right to turn down such suggestions and thoughts if he considered them wrong, but that it was not my right to draw any consequences from that.

Q Did he return that memorandum to you?

A No, I don't think I got it back. So far I have always thought that was found among the captured Schmundt files. Apparently it hasn't. I didn't get it back; he retained it.

Q I do not wish to occupy the time of the Tribunal in this connection any further. I should like to leave it to you whether you can repeat the contents of that memorandum. So far as I am concerned, what is important in this connection is not so much the military representations which one can imagine, but the question, did you refer to the Non-Aggression Pact of 1939 in that memorandum?

A Yes, yes, but I must say that the main part of that memorandum was devoted to military considerations; military considerations regarding the balance of forces, the need for forces, and the splitting of forces which were suffering from at the time -- France, Norway, the air force in Italy, and being tied down in the west. But I did in that memorandum most certainly refer to the fact that that Non-Aggression Pact existed. But the rest were entirely military considerations.

Q Were any military instructions given during that period?

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A No, nothing was ordered at that time with the exception, I think, of improvements of lines of communications from the west to the east so that there could be faster troop transports, particularly to the southeastern sphere; in other words, the Carpathians and the East Prussian theatre. Apart from that no orders were given at that time; no orders of any kind.

Q Had the discussion with the Foreign Minister Molotoff taken place at that time?

A No. To the contrary at that time in October considerations regarding a discussion with some Russians were still pending. Hitler told me that at the time, and he always emphasized in that connection that before such a discussion had taken place he would not give any orders, since it had been proved to him by General Jodl that it was technically impossible in any case to transfer strong troop units into the threatened theatres, which I have mentioned, in the east. Nothing happened therefore, and that visit or discussion with the Russian delegation was prepared, in which connection I would like to say that I made the suggestion at that time that Hitler should talk personally to him, Stalin. That was the only thing I suggested.

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Q. During that conference were military matters discussed?

A. I did'nt at all take part during the discussions with Mr. Molotov, although in that case too I was present during the reception and certain official functions. I remember that on two occasions I was the neighbour of M. Kelanosov at the table, but I didn't experience or attend any political conferences, now did I have any political discussions with my neighbor at the table.

Q. What did Hitler say after these discussions had come to an end?

A. After he departed he really only informed us very briefly, and he said approximately that he had been disappointed. I think he mentioned briefly that problems existed regarding the Eastern Sea and the Black Sea and that they had been discussed, and that he had not been able to get any positive or definite reaction, but he didn't go into detail at all. I asked him about military things which had a certain significance at the time -- the strong forces, for instance, in the Bessarabian theatre. I think Hitler avoided an answer and said that was obviously connected with all these matters and that he had not gone into it too deeply. I can't remember exactly, but at any rate, there was nothing new in it for us and nothing final.

Q. After that conference were any military orders given?

A. I think not even then. Hitler told us at the time that he wished the reaction to these discussions when the delegation had returned to Russia. Certain orders had been given to the ambassador, too, in that respect. In other words, immediately after the departure there were no orders, no.

Q. May I ask you to state the date when the first definite instructions were given?

A. I can only reconstruct it on the strength of the instruction Barbarossa which has been shown to me here and which appeared in November. In other words, it must have been during the first half of December that the corresponding orders were issued, that well-known order Barbarossa. To be precise, these orders were given at the beginning of September, namely, the orders to work out the strategic plan.

Q. Did you know about the conferences which took place at Zossen in

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December and which have been mentioned by the Prosecution here? Perhaps I may remind you that General Heinrichs was present.

A. No. Of that conference at Zossen I did know nothing, and according to the testimony of General Buschenhagen, I did not know anything about the participation of General Heinrichs. It was here for the first time that I heard about it. The only way I can explain that to myself is that the General Staff of the army wanted to get certain documentary details and that they had that discussion at that time with the persons concerned. I did not meet General Heinrichs until May 1941, and at that time General Jodl and I had a discussion with him at Salzburg. But before that I had never seen him and I had never talked to him.

Q. Is there significance in the fact that in Directive No. 21 it says that Hitler eight weeks before the operational plan would become effective would order the carrying out of the final march, the final troop dispositions?

A. Yes, there was considerable significance attached to that. I have been interrogated about that by a Soviet Union delegation here. The reason was that in accordance with the estimate of the army it would take about eight weeks to get these troops into position, looking at it from the railway transport point of view. That is to say, if troops from Reich territory were to be placed in position on an operative start line, Hitler emphasized at the time during the repeated investigation of the plan that he wanted to have complete control of those dispositions. In other words, troop movements without his approval were not permissible. That was the purpose of that instruction.

Q. When did it become clear to you that Hitler had decided to attack the Soviet Union?

A. As far as I can recollect, that was the beginning of March. There had been thoughts that the attack might be made approximately in the middle of May. Therefore in the middle of March the decision regarding the railway questions and problems had to be made. For that reason, during the first half of March a meeting of generals was called -- that is to say, an order group for generals with Hitler.

The explanations given by him at that time had the clear purpose of telling

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the generals that he had decided to carry out that campaign, but of course an order had not been given. He stated a number of thoughts at the time and produced certain instructions, referring to those matters which are contained in these directives here, Special Case Barbarossa. This is Document 447-PS, and these are the directives which were eventually signed by me. For these directives and thoughts contained therein he gave us directives at the time of that meeting, so that the generals were informed about the contents here, which in turn was the cause for me to confirm it in writing immediately. There was nothing new in that for any one who took part in that conference.

Q. But it appears new to me, what Hitler told the generals during that speech he made, and it also appears to me that you who are not charged with these matters, that is to say, the working out of these plans, must have become clear, and you had to become aware of the fact that now a completely abnormal method of warfare was about to begin, at least seen from your point of view as a soldier -- from your traditional point of view as a soldier?

A. That is correct. Here the thoughts were expressed regarding the administration and economic exploitation of the territories to be conquered and occupied, and there was the completely new thought to create Reichs Commissioners and vicil administrations, and there was the clear decision to give supreme command to the plenipotentiary for the Four-Year Plan in the economic sector; and what was the most decisive point for me and affected me most was the fact that apart from the rights for the military commanders to carry out the supreme orders as occupation forces, a new way was to be used here and expressed clearly, by which the Reichs Leader SS Himmler was to be given complete plenipotentiary powers with reference to the entire police actions which later on became known in these territories. I fought against that keenly, since it appeared impossible to me that there should be two forces working side by side.

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In the directives here it says that the powers of the supreme commander of the Army are not effected by this. That was a complete deception, and quite the opposition occured. As long as it was possible, considering my position, I fought against this.

I think I ought to say that I have no witness for that other than General Jodl, who experienced it. Eventually, however, Hitler worked out these directives himself, more or less, personnaly. That is how these directives came about and were worked out. That I couldn't give the orders which are contained in these directives becomes apparent when you realize that it says that the Reichsmarshal receives this task, and the Reichsleader receives that task, and those were things which I could not order.

Q It has never actually been discussed as to just what action, in the event of an attack on the Soviet Union, one would have to take in the way of dramatic steps or declarations of war, that one would have to present an ultimatum?

A Oh yes, yes, that was discussed by me as early as the winter of 1940 1941, Whenever discussions regarding the strength of the Russion forces on the demaraction line took place -- and I am now talking about the months: December-January -- I asked Hitler to send a note to the Soviet Union so as to clarify the situation. I can add right now that the first time he said nothing, and the second time he refused, stating that no purpose could be served and he would only receive the answer that this was an internal affair and that it was none of his business, or something like that. At any rate, he refused.

I tried again, at a later stage. That is to say, I distinctly voiced the request that an ultimatum should be presented before we took action, so that in some form the basis would be created for a preventive war, as we called it; in other words, an attack.

Q You say "preventive war". When the final and decisive decision were made, what was the military situation?

A The way we in the Army judged the situation was brought back to me here through a memorandum, which is document PS-872. According to that, at the end of January or the beginning of February, there was a report of the Chief of the General Staff of the Army to Hitler regarding the state of affairs of

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operative and strategic preparations. In that document I found the realization, in that period, regarding the strength of the positions of the Red Army and all the other existing information which has become known. It was all containe in that document.

Apart from that, I have to say too that the intelligence service in the OKW -- Admiral Canaris -- supplied little material which could be placed at the disposal of the Army, because of the very strong dividing line which exis0 ted between the Russian theater and our German positions. In other words, ther were graps up to a point. Only the matters contained in that PS document were known.

Q Would you like to say briefly what is stated there, so as to justify your decision?

A Yes. It was reported that there were approximately 150 divisions of the Soviet Union in their positions along that line of demarcation, and then there was certain aerial photography regarding a large number of airdromes. In other words, a degree of preparedness on the part of Soviet Russia existed, which could, at any time, lead to military action. And the actual battle later made it clear just how far the enemy had been prepared. I have to say, however that this was realization which was only brought about by the actual attack.

Q You were present during the last speech to the commanders in the East made on the 14th of June 1941, at the Reich Chancellery, were you not? May I ask you, without your committing any repetitions, to say briefly what Hitler said on that occasion, and how his statement affected the Generals?

THE PRESIDENT: Isn't there a document in connection with this? It must all be in the document. Isn't that so?

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DR. NELTE: I merely wanted to ask one question on that subject and then submit the document; or, if the Tribunal so desires, I will not read the document in full but will merely quote the short summary which is contained at the end of the document. Will the Tribunal agree to that?

THE PRESIDENT: But what you did was to ask the defendant what was in the document.

DR. NELTE: In that document it states, if I may briefly indicate it to you, the development, and the continuously increasing influence which organizations outside of the armed forces exercised upon the conduct of the war It is the proof that the armed forces, during that war -- which must be called a distorted war -- tried, as far as possible, to remain within international law.

THE PRESIDENT: I only want to know what your question is, that is all.

DR. NELTE: My question was directed to Fieldmarshal Keitel, and I asked him to tell me about the speech on the 14th of June, 1941, to tell me what Hitler had ordered the Generals to do and what the effect on them was. I intended to end, with that, the preparation for the Russian campaign.

THE PRESIDENT: He can tell what the effect was upon himself, but I don't see how he can tell what the effect was upon the other Generals.

DR. NELTE: He can only assume, but of course he can say whether the others reacted in one way or another. You can talk, or you can make representations. I merely wanted to know whether that happened or not.

THE PRESIDENT: Perhaps you had better ask him what happened at the conference; if you want to know what happened at the conference, why don't you ask him?

DR. NELTE: Very well.

BY DR. NELTE:

Q Yes?

A After short reports regarding the operational orders to the various commanders, there followed a summary speech which I must describe as purely political. The first argument raised was that this was the decisive battle between two well-known philosophical conceptions, and because of this fact, in this war, methods which were known to us soldiers and which we considered to be the only possible ones under international law, could not be applied, but

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that a completely different system would have to be employed. That is, with such means one could not conduct the war, that this was an entirely new war, based on completely different arguments and principles.

For these reasons various orders were given regarding the exclusion of a legal system in certain territories, regarding the fact that any resistance should be combatted with brutal means, that is, any local resistance, which was caused by the deep controversy which existed between the two philosophical conceptions.

These were completely new and very impressive but also extremely upsetting thoughts.

Q Did you, or any other generals, make, or protest against these orders or statements, or did you raise any arguments?

A No, I personally did not. And, of course, also theresistence, which I had always made known, against all these matters before, but I have no knowledge regarding which generals, or if any generals, did address the Fuehrer. At any rate, it did not happen after that discussion or conference.

DR. NELTE: Mr. President, I think that now the time has come to decide whether you will permit the documents contained in my Book No. 2 under the Numbers 3 and 5, whether that affidavit of the Defendant Keitel will be admitted in evidence although -- and I should like the Prosecution to find that also -- now we have merely discussed the history before the actual Russian Campaign and as far as the Defendant Keitel and the OKW is concerned, I should like to abbreviate the examination by submitting these two affidavits. This affidavit -- No. 3 -- is an account of the situations of the strength of orders in the East, considering the large territory and the numerousorganizations which led to extremely complicated channels for orders. So as to make it possible for you to ascertain whether the Defendant Keitel or the OKW, or whichever department may be concerned as responsible for these conditions of the power of command in the East, they have been discussed in detail and I believe that it would save a great deal of time if it would be possible for this document to be submitted to theTribunal as evidence.

SIR DAVID MAXWELL FYFE: My Lord, Sir Dodd and I have no objection to this procedure used by the Prosecution and we believe that it will probably help the Tribunal to have in front of them the printed accounts.

THE PRESIDENT: Does Dr. Nelte intend to read or only summarize these affidavits?

DR. NELTE: I was hoping merely to submit it to you after I have asked the Defendant whether the contents of the affidavit have been written and signed by him.

THE PRESIDENT: And the Prosecution, of course, have had these affi-

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davits for some time?

SIR DAVID MAXWELL FYFE: Yes.

DR. NELTE: The same applies, if I understand Sir David correctly, to affidavit No. 5?

SIR DAVID MAXWELL FYFE: Yes.

THE PRESIDENT: Dr. Nelte, it would be convenient, I think, if you gave these affidavits numbers in the sequence of your exhibit numbers and give us also the dates of them so that we can identify them. Can you give us the dates of the affidavits?

DR. NELTE: May I be permitted to arrange the matter during the luncheon interval?

THE PRESIDENT: Yes. The first is dated the 8th of March, isn't it? The other is the 18th, is it? Dr. Nelte, you can do it at the recess and give them numbers. You can give them numbers at the recess.

It is nearly 1:00 o'clock now, and we are just going to adjourn. You can give them numbers then. Does that conclude your examination?

DR. NELTE: We are now coming to the individual cases which I am hoping to conclude in the court room this afternoon. I must refer to the Prisoner of-war circumstance and other certain individual matters and I think I shall require this afternoon for that purpose. I believe that if I considered the interest of the Defendant Keitel alone, I would confine myself to very little.

THE PRESIDENT: Do you desire to put your questions to him now or not?

DR. NELTE: Well, I think -- I don't know how the President feels, about an interval, but I think it would be suitable if we had one now so that in the meantime I could put the affidavits in their proper order.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 1400 hours).

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Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 4 April 1946, 1400-1700, Lord Justice Lawrence, presiding.

DR. NELTE: Mr. President, of the two documents mentioned this morning, the first document, No. 3 of the second document book, reads "The Command Relationships in the East",

THE PRESIDENT: That is dated the 14th of March, 1946? The document that I have got is headed the 23rd of February, 1946, and at the end the 14th of March, 1946. Is that the one?

DR. NELTE: The document was first written down and later sworn to. There is, therefore, a difference in the two dates.

THE PRESIDENT: I only wanted to identify which it is, that is all.

DR. NELTE: It is the document of the 14th of March.

THE PRESIDENT: Very well.

DR. NELTE: It was sworn to on the 14th.

THE PRESIDENT: And you are giving it what number?

DR. NELTE: I give it No. K-10. The second document is fifth in this document book and is dated the 18th of March, 1946, and is sworn to at the end by the Defendant as of the 29th of March. This document has received the number K-12. Permit me to read a few points on pages 11 and 12 of the German copy. This, as it appears to me, is a very important point for this trial.

THE PRESIDENT: Of which document?

DR. NELTE: Document No. 12.

THE PRESIDENT: Just a minute. I don't think the interpreters have found the document yet, have they? It comes just after a certificate by Catherine Bedford, and I think it is about halfway through the book, and although the pages are not numbered consecutively, it appears to have the figures 51 on it.

DR. NELTE: I shall begin where it says, "In summing up". Those are the last three pages of this document.

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"In summing up there must be established:

"1. Alongside the Armed Forces as the legal protector of the Reich internally and externally, as in every nation" -- interpolating, in the SS organizations -- "a completely independent factor arose and was legalized which politically, biologically, and in police and administrational matters actually drew the powers of the State to itself.

"2. Even at the beginning of military complications and conflict the SS came to be the actual forerunner and standard bearer of a policy of conquest and power.

"3. After commencement of the military campaigns the Reichsleader SS hit upon the plan by which, while concealed at first and very littl to be seen outside, bur from time to time making suitable appearances, he could in reality build up his power under the guise of 'protecting' the annexed or occupied territories from political opponents.

"4. From the occupation of the Sudeten territory, beginning with the organization of political unrest, that is, of the so-called "freedom movements and incidents', the road leads straight through Poland and the Western areas in a steep curve into the Russian territory.

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"5. With the 'Outlines' to the 'Barbarossa' plan for the administration and utilization of the conquered Eastern territories, theArmed Forces were against their intention and without knowledge of the basic assumptions drawn further and further into the subsequent developments and activities.

"6. I (Keitel) and my colleagues had no deeper insight into the effects of Himmler's full powers, and had no idea of the possible effect of these powers.

"I assume without further discussion that the same holds true for the OKH, which according to the order of the Fuehrer joined Himmler's units and gave orders to the subordinate army commanders.

"7. In reality, it was not the Commander in Chief of the Army who had the executive power assigned to him and the power to decree law and maintain law in the occupied territories, but Himmler and Heydrich themselves of their own authority decidedon the life or death of the people and prisoners, including PW's, in whose camps they represented the executive power.

"8. The traditional training and concept of duty of the German Officer with regard to absolute obedience, with responsibility borne by his superior, led to an attitude, regrettable in retrospect, which in spite of his recognition of their lawlessness and his inward rejection of them, still shrank from a rebellion against these orders and methods.

"9. The Fuehrer, Hitler, abused his authority and his fundamental No. 1 order in an irresponsible way with respect to us. This No. 1 Order read, more or less:

'1. No one shall know about secret matters which do not belong within his own range of assignments.

'2. No one shall learn more than he needs to fulfil the tasks assigned to him.

'3. No one shall receive information earlier than is necessary for the performance of the duties assigned to him.

'4. No one shall transmit orders which are to be kept to subordinate offices to any greater extent or any earlier than is unavoidable for the achievement of the purpose.'

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"10. It is my conviction that if the entire consequences which arose from granting Hammler authority in the East had been known beforehand, in this case the leading generals would have been the first to raise an unequivocal protest against it. That is my conviction. As these atrocities developed one out of the other, step by step and without any recognition in advance of the consequences, destiny took its tragic course, with its fateful consequences."

Witness, did you, yourself, write this statement, that is, dictate it as I have just read it? Are you perfectly familiar with its contents and have you sworn to it?

A Yes.

DR. NELTE: I shall submit the document in the original.

BY DR. NELTE:

Q We had stopped with document C-50, which concerned itself with the war area involved in the Plan Barbarossa. I don't know whether you want to take an attitude toward what has been read in the meantime or whether that is already superfluous?

A I should only like to say to this, that these documents C-50 and 884-PS, are the record of the directives that were given in that general staff meeting on the 15th of July, and not in the sense -- and as is usual in such cases, these orders were set down in writing and then sent to the appropriate officers.

THE PRESIDENT: Did you give the date right? You said "the 15th of July." What was the date?

THE WITNESS: 14th of June. That was the date of the conference.

BY DR. NELTE:

Q One more question regarding the war against America. The prosecution asserts that you influenced the Germans to wage war against America and accused you of participation in German efforts to involve America in the war. Would you like to make some statement regarding this?

A Document C-75 is an order by the high command of the armed forces, which contains directives for cooperation with Japan. Of course, I have participated in the drawing up of this order and signed it.

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The other document 1881-PS. Regarding a conference between the Fuehrer and Matsuoka, I do not know and I did not know anything of it at the time. I can only say the following forus soldiers. In the course of all this time until Japanese entry into the war against America, there were two points of view that were our basic principles and these were the principles which Hitler emphasized to us. One was to prevent under any circumstances that America enter the war and consequently renounce military operations in the waters where Americans were present. Secondly, the thought that guided us soldiers was the hope that Japan would enter the war against Russia, and I recall that around November and the beginning of December 1941, when the advance of the German armies west of Moscow was halted, we, when we visited the front or accompanied Hitler, were asked several times by the generals, "When is Japan going to enter the war?" The reasons for so asking were that again and again Russian Far-Eastern divisions were being thrown into the fight around Moscow; that is to say, fresh troops coming from the Far East. That was 18 to 20 divisions but I wouldn't want to say for certain how many it was, but I was present at Matsuoka's visit at Berlin and I saw him also socially but I did not have any conversation with him, and all the combinations that can be associated with this document 75, and which I have heard in my previous interrogations, are without any foundation for us soldiers and there is no justification for anyone's believing that we were guided by thoughts of bringing about a war between Japan and America. In conclusion, I can only say that this order was necessary because the branches of the army have resisted the idea of giving Japan certain military secrets unless she were in the war.

H0101 - 0041

Q. There was also a letter submitted by the Prosecution, a letter from Falkenstein to the Air Staff. Reichsmarshal Goering has already testified about this. Did you know of this letter or do you have anything to add to Reichsmarshal's Goering's testimony?

A. I have nothing to add, I never saw this letter by von Falkenstein. I head baout it during the testimony.

Q. We come now to the individual facts and things with which you are charged in the OKW by the Prosecution. Because of the vast number of points brought up by the Prosecution I can only treat the individual and those of the most important groups of such points in order to try to ascertain to what extent you were involved in these things and what your attitude was as to the effect of the measures that were taken. In most cases it is a question of orders of Hitler but in your statement you have admitted to a certain participation and knowledge of these things. One of the most important of these questions is the question of hostages.

I want to show you document C-128. These are orders for operations in the west. Let me ask you though, first of all, what is the reason as given to the Wehrmacht in practice for the taking of hostages.

(Witness handed document)

A. These are the Secret Army Regulations, G-2 and it is headed --

DR. NELTE: I ask you, Mr. President, to turn in document book number one to number seven on page 65 of my document book.

BY DR. NELTE:

Q. I ask you to ascertain whether this is a copy from the aforementioned Army Regulations, Section 9, which treats of the question of hostages. This is document K-7 and it reads as follows:

"Hostages may only be taken by order of a Regimental Commander, an independent Battalion Commander or a Commander of equal rank. With regard to accomodation and feeding, it is to be noted that, though they should be kept under strictest guard, they are not convicts. Furthermore, only senior office holding the position of at least a Divisional Commander can decide on the fate of hostages."

That is, if you want to so call it, the hostage law of the German Wehrmac

H0101-0042

A I might say that in this connection that in the document C-128 that is the operational order of the army in the west. It is headed "3A, Measures to Assure the Safety of the Population; sub-heading (a) Hostages. 2

THE PRESIDENT: Dr. Nelte, are you offering that as K-7?

DR. NELTE: I ask to have this put in evidence as K-7.

THE PRESIDENT: Would you kindly say what you are putting it in as each time because if you simply say seven it will lead to confusion.

BY DR. NELTE:

Q Document C-128 were the orders of the High Command of the Army on the occasion of the march into France?

A Yes.

Q I have here now another document, 1585-PS, which contains the attitude of the High Command of the Wehrmacht. It is a letter to the Reichsminister for Aviation and in this letter I assume there are contained the convictions held by the office you headed.

A Yes.

Q What do you say today in connection with this letter?

A I can only say that it is precisely the same standpoint that I represent today because it states here with reference to the above mentioned order the following paragraph, beginning with the words -- "Security against any misuse--" and so on.

Q This is in reference to the order C-2 and further to the decision regarding the fate of hostages.

A According to which the decision on the fate of hostages can only be made by someone at least of as high a rank as a divisional commander.

Q Is it correct when I say that this letter from the High Command was drawn up by the High Command of the Wehrmacht Legal Department and was perused with regard to its implications with regard to international law?

A Yes, that is to be seen from the document itself that this point of view was taken into consideration.

Q On this question of hostages did you issue any general orders in your capacity as head of the OKW?

A No, only in helping to draw up this order in which the OKW participated

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No other basic orders were issued on this question.

Q On this question of hostages did you nevertheless in individual cases have anything to do with them, as charged by the Prosecution? You or the OKW are charged by the Prosecution of having expressed yourself to Stuelpnagel or Falkenhausen.

I show you document 1594-PS.

(Witness handed document)

A This is document 1594-PS. It is a communication from Falkenhausen, military commander of Belgium and is directed to the High Command of the Army, to the Quartermaster General and to the Commander-in-Chief of the West, also attention of Netherlands. I do not know this document nor could I know it. It is directed to the Army. The assumption that the French Prosecutor made that I received a letter from Falkenhausen is not so. I do not know this letter and it was not sent on my authority. Official communication between the officers in France and Belgium took place only between the High Command of the Army and these two subordinate military commanders. In the OKW these commanders were not subordinate either to the OKW or to me.

Q The French Prosecution has submitted document UK-25 and has asserted that this document was the basis for the hostage legislation in France; that there is, in other words, a basic connection between the order you signed of the 16th, ninth month, as to the treatment of hostages in France. I show you these documents, 1588-PS and 87, the same document as UK 25.

(Witness handed document)

H0101-0044

A I must first answer the question as to whether I had any connection in individual matters with the individu commanders regarding the question of hostages.

Q Have you not already answered that question regarding Stuelpnagel and Falkenhausen?

A Yes, it is possible, and I do recall one such case, that Stuelpnagel called me up from Paris once on such matter because he had received an order from the army to shoot a certain number of hostages for an attack on a German soldier. He wanted to have this order certified by me. That took place, and I believe it was testified to by a telegram, which testifies to the effect that I had a meeting with Stuelpnagel in Berlin. Moreover, the connection between me, personally, and these two commanders took place only in extraordinary matters, where they believed that they might have some support from me in matters that were unpleasant for them to carry out alone. I believe I can point out such questions as the use of forced Foreign labor from Belgium or France or, as in one case, conflicts between the military commanders and the police. In these cases I was called up directly in order to mediate.

Permit me, please, to look at the documents now.

Q You must begin with UK-25.

THE PRESIDENT: It is impossible for the Tribunal to carry all these documents in their heads by reference to their numbers and we do not have the documents before us. We do not know what documents you are dealing with.

DR. NELTE: Mr. President, for this reason, before the beginning of the session, I took the liberty of submitting to the Tribunal a list of these documents. If that did not take place, I regret it. I only regret that I could not submit the documents themselves. You will always find a number to the left of this list.

THE PRESIDENT: Yes, I see that, but all that I see here is PS-1587, which is not the one that you are referring to, apparently, and it is described as a report to the Supreme Command of the Army. That does not give us much indication of what it is about. The next one is PS-1594, a letter to OHH. That again does not give us much indication of what it is about, except that they have something to do with the hostage question.

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DR. NELTE: It is concerned with the question which the defendant Keitel is about to answer. Do you not also have No. C-128?

THE PRESIDENT: Yes, I have that. That is "Directions for the Operation in the West."

DR. NELTE: And UK-25?

THE PRESIDENT: Yes.

DR. NELTE: And PS-1588?

THE PRESIDENT: We have them all. The only thing that I was pointing out to you was that the description of them is inadequate to explain to us what they mean and what they are. Perhaps by a word or two you can indicate to us when you come to the document what it is about.

DR. NELTE: Document UK-25, regarding which the defendant Keitel is about to testify, is an order signed by him of the 16th of September regarding Communist uprisings in the occupied territories. It contains, among other thing the sentence, "The Fuehrer has now ordered that the sharpest measures should be taken everywhere in order to strike down this government as soon as possible."

The French Prosecution asserted that on the basis of this order, a hostage Legislation was published in Franch, which is contained in Document 1588 PS. If you have the document 1588-PS, you will find on the third page a regular legislation regarding the taking and treatment of hostages.

BY DR. NELTE:

Q The defendant is to state whether such a pricipal connection did exist and whether the OKW was competant in these matters at all.

A Document UK-25, the Fuehrer Order of the 16th of September, 1941, is concerned with Communist uprisings in occupied territories. The fact that this is a Fuehrer order has already been mentioned. I must clarify the fact that this order, so far as its contents are concerned, was directed solely to the eastern regions, particularly the Balkan countries. I believe that I can prove this by the fact that there is a list of the regions to which it pertains and begins "Wehrmacht Commanders, Southeast, for Bulgaria Southern Lands and Crete," and this was transmitted also to other Wehrmacht commanders and also to the OKH with the possibility of the OKH passing it on to its subordinate officers. I believe that this document, which, for the sake of saving time, I shall not

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DR. NELTE: It is concerned with the question which the defendant Keitel is about to answer. Do you not also have No. C-128?

THE PRESIDENT: Yes, I have that. That is "Directions for the Operation in the West."

DR. NELTE: And UK-25?

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read here, has several indications that the assumption on the part of the French Prosecution was the basis for the hostage law, to be found in 1588-PS, which is false and there was no basic connection between the two. The date of this hostage law is also in September. The number is hard to read, but, as can be seen from its contents, these two matters are not connected and, moreover, the two military commanders in France and Belgium never received this order from the OKW but, perhaps, they received it through the OKH, a matter which I cannot check on because I do not know.

Regarding this order of the 16th of September, 1941, I should like to say that its considerable strictness can be traced back to the personal influenc of the Fuehrer, and the fact that it is concerned with the eastern region, which is to be seen already in the introduction, does not have to be substantiated any further. It is correct to say that this order of the 16th of September, 194 is signed by me

Q We come now to the second individual fact brought up by the Prosecution, the question of the "Nacht und Nebel". The Prosecution charges you of having participated in the "Nacht und Nebel" law of the 12th of December, 1939.

A May I say one more thing regarding the other question?

THE PRESIDENT: The date came through to us as 12 December 1941. That is not right, is it?

DR. NELTE: In the order of the 2nd of February, 1942, the date was corrected as the 7th of December, 1941.

BY DR. NELTE:

Q You wanted to say something to the previous question?

H0101-0048

A Never mind.

Q Do you have the document, L-90?

A Yes.

Q What was the reason for this order, so terrible in its consequences?

A I must state that it is perfectly clear to me that the connection of my name with this so-called "Nacht und Nebel" order is a serious charge against me, even though it can be seen from the order that it is a Fuehrer order. Consequently I should like to state how this order came about.

Since the beginning of the Eastern campaign and in the late autumn of 1941 until the spring of 1942 the resistance movement and sabotage and so on in all the occupied territories became very strong indeed. Militarily it meant that troops were tied down -- troops who had to take care of the local unrest, that is, from the military point of view. And day by day, reports came in telling of what was taking place in the individual sectors.

It was impossible to handle this summarily; rather, Hitler demanded that he be informed of each individual occurrence, and he was very displeased if such matters were concealed from him by the military authorities. In this connection he said to me that it was displeasing to him and unfavorable to general peace and quiet that court-martial death sentences against saboteurs were lacking. He wished this not to occur, since it was in his interest to see that peace and order be maintained. He said that it was necessary that these things be limited, that sabotage acts be made less frequent, and to this end that it was necessary to have a clear sentence of death as punishment for such action, instead of longwinded court-martial proceedings with a long list of witnesses.

The way to handle this was that those guilty or accused should simply be taken without further ado and without anyone's knowledge and taken to Germany and there interned and dealt with.

I had the greatest misgivings in this matter and know very well that I said at that time that I feared exactly the opposite results of those that were hoped for. I then had serious discussions with the legal adviser of the Wehrmacht, who had similar scruples, because there was an elimination of the ordinary legal processes, and he advised me to try to prevent this order from being issued. My efforts were in vain. I was threatened, and consequently I

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gave the War Minister an order to draw up this order. I can refer to details only in so far as this order is contained in L-90. It is intended to prevent arbitrary sabotage.

In this order the general principles of the order provided that such deportation into Reich territory should take place only after a regular court martial proceeding and that in every case the judge or the divisional commander, together with his legal adviser, had dealt with the matter. I say that I honestly believed then that every arbitrary application of this order was by this provision avoided, and you can perhaps agree with me that the words in the order, "It is my will," meaning the Fuehrer's will, were not in there in vain. The military commanders were to see from this that this was a method with which I did not agree and which I did not consider to be the correct method.

Finally we wrote into the order an arrangement for a subsequent checkup so that through regular court-martial channels an appeal was possible. This was in order that there should still be the possibility of a legal proceeding in an appeal if the verdict appeared to be challengeable. The entire and enormous tragedy, which I found out here for the first time, is this: that this order, which was only intended for the Wehrmacht and which could only determine whether a saboteur could be made to disappear in this Nacht und Nebel fashion, the whole tragedy is that this procedure was generalized, extended beyond the Wehrmacht -- it was used by the police -- and so this horrible circumstance arose, that entire groups of people were deported through this Nacht und Nebel procedure. I and those who participated in the drawing up of this order did not know of this and certainly did not intend it. At any rate I was not informed of it.

Therewith, this order, which in itself undoubtedly was very dangerous and abandoned certain requirements of law such as we understand them, came to have the consequences which the Prosecution has brought up.

We also considered that it was good to take those who were to be deported from their home country to Germany, because a penal service in prison would be considered by these patriots as dishonorable, and we felt that it would be better that they be taken to Germany where they would not be submitted to this dishonor.

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Q Please elucidate one point: In the order for the carrying out of this Nacht und Nebel policy, it stated that the Gestapo was to carry out the transportation of the condemned to Germany. You stated that the people who came to Germany were to be turned over to the Minister of Justice for normal custody. Did you have some scruples about turning these people over to the SS? In other words, did you have some idea what would happen to them? Can you say anything in elucidation of that matter?

A Yes. The order that was given at that time was that these people should be turned over to the German Justice authorities. This document originated in Amt Abwehr. It characterizes the conference or agreements which had to be reached at that time regarding the method by which these people were to be taken from their native countries to Germany. That was led apparently by this Amt Abwehr, and then the police commanders. I can say in this connection -- and I have always witnessed it -- that it did not seem objectionable at that time, because I was not then of the opinion that these people were being turned over to be liquidated but that the Gestapo was simply being used as the medium in charge of the transportation. I should like to emphasize that particularly, so that there can be no doubt of it: that it was not our original idea for the people to be so treated as it later turned out they were treated as a result of the Nacht und Nebel command.

Q We come now to the question of commandos, parachute troops. The French Prosecution treats in detail of the origin and effect of the two Fuehrer orders of the 18th of October, 1942, regarding the treatment of parachute troopers and commandos.

DR. NELTE (to the Tribunal): Does the Tribunal have a copy of this order? It is 498 --

THE PRESIDENT: We haven't got a copy of the order. You mean 553-PS or 498?

DR. NELTE: The second is 553-PS.

THE PRESIDENT: We haven't got that, either, "Combatting of individual parachuters, decree 4842" --

DR. NELTE: Could you please repeat your statement? It didn't come through.

THE PRESIDENT: PS-553, "Combatting of parachuters, Decree of 4842.

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That is what we have, nothing else. You also have 498 --

Q PS-553 is a notice signed by Keitel. The French Prosecution has assumed correctly that there is some connection between the document, PS-553 and the Fuehrer order of the 18th of October, 1942. The Defendant is to testify what the reasons were that lay behind this Fuehrer order and this notice.

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the words were spoken, "As long as the paratrooper runs the danger only of being taken as a prisoner of war, he incurs no practical danger. He had nothing to fear, and that can not be allowed to continue to be the case."

I made several attempts to express myself in this matter. General Jodl will also recallthis. We did not know what we as soldiers were to do. We could make no suggestion.

If I may sum up briefly, daily we heard Hitler's temperamental explosions on this subject, but we did not know what we could do. He declared that this was against the Hague Convention and illegal, that it was a method of waging war that had not been foreseen in the Hague Convention. He said that this was a new war in which new methods were being used that we had to deal with.

Then, as I have already testified in a previous interrogation, this order itself and the order that those who did not carry out the first order should be punished were published. They were published, I believe, by the Chief of the Fuehrung Stab, Jodl, and then distributed.

I might add that many times the commanders who received this order asked questions about how it was to be applied, particularly in connection with the threat that they would be punished if they did not carry it out, and we simply told them what was in the order. We were not in a position to change this written order.

Q The Prosecution has accused you personally of having issued the order to kill the English saboteurs involved in the sabotage actions at Stavanga. In this connection I submit to you Document 498-PS, 508-PS, and 527-PS.

DR. NELTE: This, Mr. President, was a commando mission in the neighbourhood of Stavanga. The troops that fell into German hands alive were obliged, according to the Fuehrer decree to be killed. There was a remote possibility of letting these people testify about their case if that was demanded by military necessity. In this case the commander in chief in Norway concerned himself with the matter. General Falkenhorst. He turned to the OKW, as he has already testified in an affidavit.

Q Would you make any statement in this connection?

A I was interrogated on this subject, and in the course of the

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A First of all, Document 553-PS: This notice was published by me in August of 1942 in a way similar to the Nacht und Nevel decree that I have described. The dropping by parachute of saboteurs, agents, paratroopers with explosives after this reached greater and greater proportions. The materials were dropped in thinly populated regions. They were then distributed all over the area governed by Germany at that time. It extended from France as far as Czechoslovakia and, from the east, as far west as Berlin.

Of course, a large number of the people involved in these actions were captured. This memorandum was to inform all offices outside the Wehrmacht of these things and to solicit their support in combatting them.

This method of conducting the war was, to our way of thinking, illegal, a sort of war in the dark, and, even today, after reading this document through again, I consider this memorandum as unobjectionable. It provides that members of foreign armed forces, if they were captured by the police, should be taken to the nearest Wehrmacht office after their identification and there be turned in.

I know that in this activity of taking these people into custody , the French police played a large and honorable role in reducing these acts of sabotage. This will perhaps make clear how extensive these activities were: On any one day we sometimes had as many as a hundred blowings-up of bridges or railroads. So much for the memorandum.

Now, as to the Fuehrer orders of 19 October 1942, which have been mentioned very often here and which I can characterize as subsequent results of this memorandum to the extent that these methods, illegal methods, of waging war kept on increasing. Small commando units were formed by the enemy and materials and men were landed by parachute. They were now under orders not to create disturbances in general but to attack vital and important military objects. For instance, they had the task in Norway of blowing up the aluminum works.

During this period, during which half to three-quarters of the daily camps discussions were devoted to how to handle these saboteurs, matters reached the point where the Fuehrer demanded other methods, vigorous measures to combat this activity, which he characterized as "terrorism" and said that the only method that could be used to combat it was terror. I recall that

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interrogation, I was confronted with General Falkenhorst. As I recall, I did not remember his having asked me questions regarding the carrying out of this order. Even the event itself was no longer in my memory, and I remembered it again only after I had seen the documents.

During the interrogation, I told the interrogator that I had no authority to change that order; that I could only inform any one who inquired as to what to do that he should act as instructed in the order.

As regards my consultation with General Falkenhorst, I should like to say only what is stated here in the affidavit. He edited his answer: "Keitel did not deny having had this talk with me but denied that the subject of it was what I said."

Q This interrogation of Falkenhorst was submitted by the Prosecution without having a document number. Are you done with your statement?

A Yes. I believe that suffices.

THE PRESIDENT: Dr. Nelte, the Prosecution did not put in this document, did they? They have not offered it in evidence.

DR. NELTE: I believe so, yes.

THE PRESIDENT: I think they must have put it to the defendant Keitel in one of his interrogations, did they not? Isn't that right? That does not mean that it is put in evidence, because the interrogation, itself, you see, need not be put in evidence. You must put it in now if you want it to go in.

DR. NELTE: Mr. President, there is some error here. This document was put in by the Prosecution here as documentation for the assertion that the defendant Keitel had told Falkenhorst to kill these paratroopers. I received knowledge of it here.

THE PRESIDENT: The Prosecution will tell me if that is so, but I cannot think of any document having been put in here that has not had an exhibit number.

MR. DODD: We have no recollection of having put it in. Many of these interrogations did not have document numbers, but, of course, if they were put in, they would have USA or Great Britain exhibit numbers.

THE PRESIDENT: Well, perhaps the best way would be for Counsel for the Prosecution to verify whether it was read in evidence.

MR. DODD: That will take me a few minutes, Your Honor.

THE PRESIDENT: Yes, I mean at your leisure. Would that be a convenient time to break off for ten minutes?

DR. NELTE: Yes.

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THE PRESIDENT: The Tribunal will adjourn this afternoon at a quarter to five. They will then sit again in this court in closed session, and they desire that both counsel for the prosecution and counsel for the defense should be present then as they wish to discuss with counsel on both sides the best wayy of avoiding translating unnecessary documents.

There have, as you know, been a very great number of documents put in and a great burden has fallen upon the Translating Division. That is the problem which the Tribunal wish to discuss in closed session with counsel for the prosecution and counsel for the defense. They will therefore, as I say sit here in closed session where there is room for all the defense counsel. That is at five o'clock.

BY DR. NELTE:

Q Do you remember an inquiry of Commander West in June of 1944 regarding the Treatment of sabotage troops behind the invasion front? A new situation was created through the invasion, and the question of a command of troops arose.

A Yes, I remember, since these documents too have been submitted to me here. There are several documents in that respect. It is true that Supreme Commander West, after the landing of Anglo-American forces in North France, considered that a new situation had arisen with reference to the Fuehrer Order of October 18, 1942. directed against the parachute troops. Inquiry was as usual started, and General Jodl and I represented the view of the commander in the west, namely that this order was not applicable here. Hitler refused to accept that point of view, gave certain directives in reply, and according to the documents, after two editions and after one had been closed out as unsuitable, the document 551-PS is the final version as approved by the Fuehrer during that report. The reason why I remember so accurately is because of the occasion of presenting that reply at the discussion of the situation. This written appendix was added by General Jodl with reference to the application in the Italian theatre. With that appendix this version certainly was approved and demanded by Hitler, and was then sent out.

Q Wasn't the question discussed in this connection just how the active support of such acts of sabotage by the population could be judged from the point of view of international law?

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A Yes, that question arose repeatedly in connection with the order of October 18 1942, and the well-known previously discussed leaflet. I am of the opinion that the Hague regulations about land warfare refer to any such sabotage and in their report they condemn it if the population participated in any such action, and if the population supports such action, or covers the perpetrators in any shape or form. That in my opinion is clearly expressed in the Hague regulations on land warefare, namely, that the population must not commit such supporting action.

Q The French prosecution have submitted a letter of the 30th of July 1944 which is document 537-PS This is concerned with the treatment of members of foreign military units caught together with bandits. Do you know it?

A Yes I do. Yes, this document 537-PS has also been submitted to me during interrogations before the trial, and I have been interrogated on it, and I have made the statement, which I will briefly repeat, that it be reported that attache to the staff of these bandits, particularly the leaders of the Serbian and Yugoslav bandits, there had been military missions which we believe were certain agents and agent troops for the purpose of liaisoning with the state with which we are at war. It had been reported in this connection and inquiries had been made what should be don, in case of capturing such a mission, as it was called; in case they were and could be captured. Upon reporting this to the Fuehrer he decided that the suggestions of the military authority concerned, namely, to record them as prisoners of war should be turned down, since according to the directive of the 18th of October 1942 they were to be considered saboteurs and treated as such. That document represents the crux of that order, and it bears my name.

Q The problem of terror fliers and lynching justice has been mentioned during the examination of Reich Marshal Goering. Consequently I shall confine myself to a few questions which concern you personally in connection with that problem. You know what we are concerned with, the conception "Terror Fliers" and the treatment of terrorists fliers. What was your attitude to that?

A Starting from a certain date in the summer of 1944, attacks against the population with arms carried aboard aircraft has been explained here. These increased considerably, and that there had been thirty to forty victims in a day

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which had lost their lives caused Hitler to demand categorically that this question should be solved by an order. We soldiers were of the opinion that existing regulations were sufficient, and that new regulations were unnecessary. The question of Lynching came into the problem and the question what is a terrorist flier, and on the strength of these two groups of questions the innumerable number of documents which you will note arose which treats or deals with that subject.

Q I think it would be necessary for us to repeat the details which have already been discussed. In this connection [redacted] regarding your responsibility I am interested in the words which you have written across one of these documents. Please, will you explain these?

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A I merely wanted to state, first of all, that I had suggested, after the example of the warning that prisoners of war had been shackled after Dieppe, that here too a corresponding official note should contain a warning that we would employ reprisals if the enemy commanders would not, by themselves, stop that practice. That was refused, and it was said that this was not a suitable suggestion.

And now to the documents, which are important to me.

Q Ps-735.

A There are some notes in handwriting on a record of a report made by Jodl and myself. One record bears a remark on the margin written by me which runs as follows: "Courtmartials won't work"; at least, that was the content. I wrote that on the margin at the time because the question of sentence by court martials came up for discussion, and that very document laid down in detail for the first time what a terrorist flier was. It stated that terror attacks were always attacks carried out from low-flying aircraft, and my thoughts led me tothink that crews attacking in low-level flights could not be caught alive in 99 out of 100 cases, if they crashed, since there was no possibility of saving themselves with a parachute from such heights. Therefore, I wrote that remark in the margin.

Furthermore, I considered, apart from the fact that there couldn't be proceedings against such a flier, one would, secondly, not be able to conclude a satisfactory trial or a satisfactory investigation if an attack had been carried out from considerable height because no court, in my opinion, would be able to prove that such a man did have the intention of attacking those targets which in fact had been hit.

Finally, there was one last thought, which was that in accordance with the rules regarding court martial proceedings against prisoners of war, through the protecting power, the enemy state had to be informed and three months' grace had to be given during which the home state could object to the sentence. It was therefore, out of the question that through those channels and during a brief period the desired could be achieved.

That is what was meant by the words "That won't work."

I have written another remark also, and this refers to the lynching.

H0101 - 0059

It states: "If you should allow lynching at all, then you can hardly lay down rules for it."

To that I can't say very much, since my conviction is that there is no possibility of saying under what circumstances such methods of people's justice could be regulated or considered proper, and I am still of the opinion that rules for such proceedings cannot be laid down.

Q But what was your attitude regarding the question of lynchings?

A It was my point of view that it was a method completely impossible for us soldiers. One case had been reported by the Reichsmarshal in which he had prohibited any proceedings against a soldier who had stopped such actions. I know of no case where soldiers, with reference to the shooting of soldiers, behaved towards a prisoner of war in any other way than that laid down in generally known regulations.

I should also like to state -- and this has not been mentioned yet -- that I had a discussion with Reichsmarshal Goering at the Berghof about the whole question, and he, at that time, indicated his point of view extremely clearly. He said that he agreed -- namely, that lynchings for soldiers should be turned down under any circumstances, and that we were in an unfortunate position. I asked him to approach Hitler once more, personally, and try to clear that point of view. I asked him to ask Hitler not to tell us to draft an order of that kind.

Q We are now turning to the prisoner of war system.

A May I just say finally that another order from the OKW had never been drafted and had never been issued.

Q There is hardly any problem in the law of warfare in which all nations and all people are so passionately interested as the prisoner of war system. That is why, here too, the prosecution have stressed particularly those cases which were violations of laws for prisoners of war, be it in accordance with the Geneva Convention, or be it in accordance with general international law.

Since the OKW, and you as its chief, were responsible for the prisoner of war system in Germany, I should like to put the following questions to you.

What had been done in Germany so that all departments and offices of the

H0101-0060

armed forces were made acquainted with international agreements which referred to prisoners of war?

A There was a special service instruction on that subject, which I think is available, and in which all rules were contained, including the operational regulations which arose from the existing international agreements. That is, I think, Directive No. 38, which applied to the Army and the Navy, and also to the Air Forces. That was the basis of the service instructions, and the basic order.

Q How was that used in practice? Were people who had to occupy themselves with such questions in practice informed, or was it sufficient to draw their attention to the general directives?

A Every department, right down to the smallest unit, had those instructionsand every soldier, up to a point, had been instructed on it. Apart from that, no further explanations were expected at the beginning of the war.

Q I am thinking of the courses of instructions instituted in Vienna for that particular purpose. Do you know of them? Do you know that they took place in Vienna?

H0101-0061

A Yes, it is known to me that such matters were subject of certain courses of instruction for those people who were in contact with prisoners of war in practice and that there were courses of instructions that were held.

Q Is it, furthermore, correct that every soldier had them in his pay book?

A Yes. That has been confirmed here, I think, by General Milch the other day, who had it on him.

Q When were the first instructions regarding prisoners of war given in your case?

A As far as I know, the first instructions appeared after the beginning of the Polish Campaign in the East, since every preparatory measure for reception of prisoners of war had been refused by Hitler. He had prohibited it, but after that, on very short notice, things had to be improvised.

Q What was ordered?

A It was ordered that the three services, the Navy, Army and the air force to a limited extent -- but particularly the army -- should prepare appropriate measures; registration cards should be got ready -- in fact, that everything should be prepared in that connection and their organization.

Q Please tell us which functions within the OKW regarding the treatment of prisoners of war and their welfare arose.

A The principal instruction was treatment according to the rules with reference to international agreements, and in my opinion that contained exhaustively everything which the people concerned had to know. Apart from that, no additional instructions were issued at that time; but these instructions were dealt with according to these rules.

Q First of all, I should like to know how far the OKW had jurisdiction regarding the treatment of prisoners of war. The OKW was, shall I say, the ministerial directing department which had to issue all basis regulations and directives in that respect -- prepare them, and which had the right to ascertain the observance of these instructions by means of inspections. In other words, it was the leading department issuing instructions with rights to inspect, without having, of course, command of the camps themselves.

H0101-0062

Q Shouldn't one add the correspondence?

A I have forgotten that one of the main tasks for the entire armed forces, and therefore the army, navy, and air force too, was the correspondence with the Foreign Office to the protecting powers -- contact with the International Red Cross and all such departments who were interested in the welfare of prisoners of war. I had forgotten that.

Q Therefore the OKW was the legislator and the controller?

A That is correct.

Q What did the sub-sections of the armed forces have to do?

A The navy and the air force, in the limited framework of their share of prisoners of war, had certain under their command, just as the army, under consideration, in a considerably larger degree, through reputable commanders at home, had the task of administrating and commanding the camps in their spheres.

Q Now, let us take the prisoner of was camps. Who was at the head of such camps?

A In the command district there was a commander, or general, of the prisoner-of-war system in that district, and the camp itself was led by a camp commander who had a small staff of officers, among them intelligence. officers and some such persons who were responsible for such matters.

Q Who was the superior officer if the general for prisoner of war affairs in the command district?

A The commander of the army district -- he was the superior officer.

Q Who was his superior?

A The army district commanders were under orders of the supreme commander of the reserve army, and he in turn under the supreme command of the army.

THE PRESIDENT: The Tribunal will adjourn for ten minutes

(There was a recess.)

(The Tribunal adjoined until 5 April 1946 at 1000 hours.)